

Claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Zhao et al. in view of Patrick et al., and further in view of Yamagata et al. (USP 5,362,358).

The primary reference, U.S. Patent No. 6,051,286 to Zhao et al., was issued on April 18, 2000, which was after the December 1, 1997 filing date of the application from which the present continuation prosecution application (CPA) claims priority. Zhao et al. qualifies as prior art only under 35 U.S.C. § 102(e). The present CPA was filed on August 18, 2000.

Further, Zhao et al and the present application are commonly assigned to Applied Materials, Inc., and were, at the time of the invention, owned and subject to assignment to Applied Materials, Inc. The present application was filed as a CPA on August 18, 2000 under 37 C.F.R. 1.53(d), which was after the November 29, 1999 enactment date of the American Inventors Protection Act of 1999, 106 P.L. 113; 113 Stat. 1501 (the "Act"). Section 4807 of the Act amended 35 U.S.C. § 103(c) to read as follows:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

The amendment to § 103(c) applies to any application for patent filed on or after the November 29, 1999 enactment date of the Act.

The present application meets the requirement of 35 U.S.C. § 103(c) with respect to commonly assigned U.S. Patent No. 6,051,286 to Zhao et al. Thus, Zhao et al. does not qualify as prior art under 35 U.S.C. § 103. Accordingly, Applicant respectfully requests withdrawal of the rejection of all pending claims under 35 U.S.C. § 103(a).

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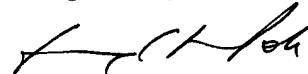
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CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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